

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,) Docket No. 14 CR 447
)
Plaintiff,))
)
vs.)
)
HAKEEM EL BEY,) Chicago, Illinois
) September 17, 2015
Defendant.) 10:15 o'clock a.m.

TRANSCRIPT OF PROCEEDINGS - SENTENCING
BEFORE THE HONORABLE RICHARD A. POSNER

APPEARANCES:

For the Plaintiff: HON. ZACHARY T. FARDON
United States Attorney
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For the Defendant as Amicus Curiae: JENNER & BLOCK LLP
BY: MR. GABRIEL A. FUENTES,
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Also Present: MS. SHEILA LAVIN, Probation

Court Reporter: MR. JOSEPH RICKHOFF
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1 THE CLERK: 14 CR 447, United States vs. Hakeem El
2 Bey.

3 MS. MALIZIA: Good morning, your Honor, Kathryn
4 Malizia and Christopher Hotaling on behalf of the United
5 States.

6 MR. HOTALING: Good morning, your Honor.

7 THE DEFENDANT: Good morning, your Honor, Hakeem Bey.

8 MR. FUENTES: Good morning, Judge. For the record,
9 Gabriel A. Fuentes as a friend to the court.

10 THE COURT: Is there a probation officer?

11 MS. LAVIN: Good morning, your Honor, Sheila Lavin
12 from U.S. Probation appearing for Sandra DeNicholas.

13 THE COURT: I'm sorry?

14 MS. LAVIN: Sheila Lavin appearing --

15 THE COURT: Landon, did you say?

16 MS. LAVIN: I'm from the U.S. Probation Office, and
17 appearing for Sandra DeNicholas.

18 THE COURT: I was just trying to catch your name.

19 MS. LAVIN: Oh, I'm sorry. Lavin, L-a-v-i-n.

20 THE COURT: Oh, Lavin.

21 MS. LAVIN: Yes.

22 THE COURT: Thanks.

23 MS. LAVIN: Sorry.

24 THE COURT: Well, please be seated.

25 So, we are here for the sentencing hearing of Mr. El

1 Bey.

2 I apologize for being late. The traffic from Hyde
3 Park was unspeakable. So, a 20-minute drive took an hour.

4 So, Mr. El Bey, you have received the Presentence
5 Report and the supplemental report prepared by Probation? You
6 have received those?

7 THE DEFENDANT: Yes, I did. She gave it to me last
8 Thursday.

9 THE COURT: Okay. That's fine.

10 So, let me ask -- neither side has filed any
11 objections to the Presentence Report -- are there any
12 objections to the facts in the report or in the supplemental
13 report?

14 MS. MALIZIA: We have none, your Honor.

15 MR. HOTALING: Judge, I think Mr. El Bey was going to
16 comment.

17 THE COURT: I'm sorry.

18 THE DEFENDANT: Okay, Judge. I have -- I do have
19 objections to the -- not the fact of the case, but the law
20 issues of the case.

21 THE COURT: Okay. Well, that will be for later.

22 THE DEFENDANT: Okay.

23 THE COURT: This is just facts.

24 THE DEFENDANT: Okay.

25 THE COURT: So, I will accept the facts.

1 Now, the Presentence Report lists a Guidelines range.
2 And this is just suggested. This is not mandatory. In fact,
3 I'm not allowed to accept the Guidelines range. I have to
4 make a fuller assessment. But the range in the Presentence
5 Report is 57 to 71 months. And the question is whether
6 there's objections to that range.

7 MS. MALIZIA: Your Honor, the government agrees that
8 that is the correct advisory Guidelines range.

9 THE COURT: So --

10 MR. MALIZIA: Your Honor, if we could get Mr. El
11 Bey's --

12 THE COURT: Excuse me?

13 MS. MALIZIA: If we could get Mr. El Bey's
14 objections, or lack thereof, on the record.

15 THE DEFENDANT: Yes. Well --

16 THE COURT: To the Guidelines range?

17 THE DEFENDANT: To the Guidelines, yes.

18 Okay, Judge. I've never committed a crime in my
19 life. I never been in any kind of trouble. I actually really
20 thought that was -- I worked for the government for 30 years.
21 I thought that was sort of steep for a man who never did
22 anything in his life. And I didn't think I did anything
23 wrong.

24 So, I think that's sort of steep for a man, to take
25 me away from my family, my kids that long.

1 THE COURT: Yes, but the Guidelines range is just
2 basically arithmetical computation.

3 THE DEFENDANT: Uh-huh.

4 THE COURT: I'm not bound by it.

5 THE DEFENDANT: Okay.

6 THE COURT: The factors you've considered -- the fact
7 you don't have a criminal record and family -- so, those are
8 factors which I will be taking into account.

9 There's also a Guideline range of one to three years
10 for what's called supervised release. So, after you complete
11 any prison sentence -- prison term -- that I impose, we're
12 supposed to -- the judge is supposed to -- consider placing
13 certain restrictions. Not imprisonment, but, you know,
14 certain rules. And I'll get to that.

15 There's a special assessment of \$800? Is that
16 mandatory?

17 MS. MALIZIA: Yes, your Honor.

18 MR. HOTALING: It's \$100 per count--

19 MS. MALIZIA: Per count.

20 MR. HOTALING: -- of conviction, Judge.

21 THE COURT: Excuse me?

22 MR. HOTALING: It's \$100 per count of conviction
23 under the statute.

24 THE COURT: And there are eight counts. So, a
25 hundred dollars.

1 There's also a fine range in the Guidelines of ten
2 thousand to a hundred thousand dollars. I'm not going to
3 impose a fine.

4 There is restitution and forfeiture that is
5 mandatory. The fine is optional.

6 Speaking of, though, forfeiture and restitution, I
7 want to ask the government, as I understand it, you're going
8 to apply the forfeiture to restitution rather than have two
9 separate \$600,000 charges; is that correct?

10 MR. MALIZIA: Yes. Your Honor, to the extent that
11 restitution can be satisfied through forfeiture, the
12 forfeiting of the defendant's assets will be applied towards
13 that restitution.

14 THE COURT: Pardon?

15 MS. MALIZIA: It will be applied towards
16 restitution --

17 THE COURT: Right.

18 MS. MALIZIA: -- pursuant to the --

19 THE COURT: So, it's not a double count.

20 MS. MALIZIA: Correct, your Honor.

21 THE COURT: Now, for the rest of our hearing, I'm
22 going to hear first from the government about the sentence
23 they consider appropriate; then from Mr. El Bey; then from
24 Mr. Fuentes.

25 (Brief pause.)

1 THE COURT: I should have mentioned -- my law clerk
2 reminded me -- that this Guidelines range, the 57 to 71
3 months, which, as I say, is not binding, but it's calculated
4 from a table in which one calculates an Offense Level, which
5 is based on the nature of the crime and other factors and also
6 your criminal history, which you don't have a criminal
7 history. So, from that Offense Level and Criminal History
8 Category, this Guidelines range is generated.

9 Okay. So, as I said --

10 MS. MALIZIA: Your Honor, I hate to interrupt, but
11 before we proceed, are you formally adopting the PSR and the
12 Guidelines range in the PSR?

13 THE COURT: Yes.

14 MS. MALIZIA: Thank you.

15 THE COURT: So, I want to hear the government -- the
16 government will have a sentencing recommendation; Mr. El Bey,
17 also; and, Mr. Fuentes; and, I will give the government a
18 chance to respond.

19 After that, Mr. El Bey will have his opportunity for
20 what's called allocution, in which you can tell me anything
21 you think germane to the sentencing.

22 I want to mention for anyone not previous, Mr.
23 Fuentes was appointed as what's called standby counsel, which
24 means he was and is a resource for Mr. El Bey. Mr. El Bey is
25 representing himself, as is his constitutional right. But

1 Mr. Fuentes is present and he wanted to make a statement, and
2 Mr. El Bey said that was okay. So, we'll hear from him.

3 So, begin with the government's sentencing
4 recommendation and want you to include, you know, any
5 supervised release conditions.

6 MS. MALIZIA: Your Honor, the government is seeking a
7 Guidelines range sentence in this case. We believe that this
8 case comes down to something very simple -- lies. This is a
9 crime that even a five-year-old could grasp. The defendant
10 said things that weren't true to get things that he was not
11 entitled to. In this case, that was tax refunds.

12 As your Honor's aware, he filed a total of seven
13 false returns, six of which were charged in the indictment.
14 And virtually every line of these returns was a false
15 statement. He created a sham trust with the IRS and, on these
16 returns, he lied about the date that trust was founded; the
17 trust's income; fiduciary fees paid by the trust; exemptions
18 that applied to the trust; and, of course, most importantly,
19 tax withheld from the trust by the IRS.

20 He did this to mislead the IRS into believing that he
21 was owed a \$300,000 tax refund per return. So, an attempted
22 total fraud of \$2.1 million.

23 The evidence at trial showed beyond any doubt the
24 defendant knew this information was false when he submitted
25 these returns and that his conduct was illegal.

1 The IRS even told the defendant in writing in three
2 separate letters that they believed he had made false
3 statements on these returns and that his conduct was illegal.
4 And one of the most telling things about the defendant's state
5 of mind was his reaction to these letters.

6 What did he do at the very start of this fraud when
7 the IRS told him his conduct was illegal? Did he say, "I'm
8 sorry, I've made a mistake? I never intended to break the
9 law"? No. He refined his approach, your Honor. Whereas he
10 filed three returns at once raising red flags with the IRS, he
11 decided to file one return at a time to skate under their
12 radar.

13 And each time he successfully got a check from the
14 IRS, he spent that check. On a home, on cars, on his
15 household expenses. And when that money ran out, he did it,
16 again. The defendant's crime was deliberate; it was
17 systematic; and, it would have continued for as long as the
18 IRS remained in the dark about his conduct.

19 Your Honor, I wish I could say more about the
20 defendant's history and characteristics. Unfortunately, our
21 picture of the defendant is incomplete because he's refused to
22 cooperate with the Probation Department's investigation.

23 We know he's a middle-aged man; that he has at least
24 five children; they're all adult aged. We know that he grew
25 up in a loving, supportive and stable household; that he was a

1 Postal employee from 1984 through 2012; and, that apart from
2 the occasional traffic violation, he had never before been
3 convicted of a criminal offense until this case.

4 In a lot of ways, he's typical of what we call white
5 collar criminals. He obeys the law as long as he thinks it
6 suits his needs, but he's willing to break it if he thinks he
7 can get away with it. And when he's caught, he's willing to
8 engage in absurd rationalizations to try to explain his
9 transparently illegal behavior.

10 Even after the IRS found him liable for \$600,000 in
11 this case, even after IRS investigators told him he could go
12 to prison for what he had done, he tried to satisfy the IRS's
13 \$600,000 lien with a bogus check. This total lack of respect
14 for the law has infected these proceedings from start to
15 finish.

16 As the Court is aware, the defendant is a member of
17 the sovereign citizen movement. This is a group that rejects
18 the legitimacy of the United States government and its laws.
19 And at nearly every hearing and throughout his trial, the
20 defendant has repeatedly violated this Court's orders not to
21 interject irrelevant sovereign citizen mantras into these
22 proceedings.

23 He most recently became a fugitive after refusing to
24 appear for his sentencing hearing, and a warrant had to be
25 issued for his arrest. That is why he's here today in

1 custody, your Honor.

2 The defendant's actions could be somewhat
3 understandable, perhaps even sympathetic, if he had had a
4 valid basis to object to these proceedings or the application
5 of the law in this case. But the fact is, the sole purpose of
6 these outbursts, of these ramblings was to distract the Court
7 from the only real issue in this case; and, that is: The
8 defendant's decision to systematically defraud the IRS of
9 hundreds of thousands of dollars.

10 That is why the need to promote deterrence in this
11 case, both specific and general, is absolutely critical, your
12 Honor. The defendant clearly believes he is above the law.
13 Warnings and admonishments from the IRS, from criminal
14 investigators, and from this Court have failed to persuade him
15 otherwise. Even his recent arrest seems to have had very
16 little effect on his state of mind.

17 A substantial prison term within the Guidelines range
18 is required to communicate to the defendant that his actions
19 have consequences beyond mere warnings, and to deter him from
20 committing similar crimes in the future.

21 The need for general deterrence here is no less
22 imperative. The defendant's contempt for the law extends to
23 the entire sovereign citizen movement. This is a movement
24 that consists of garden-variety fraudsters who attempt to
25 obscure the criminal nature of their conduct by derailing the

1 judicial process. A substantial sentence in the Guidelines
2 range is necessary to deter others, both those who have
3 already joined the sovereign citizen movement and those who
4 may be tempted to join because of the prospect of easy money.
5 The only way to make the law real to this type of criminal is
6 to show them that their crimes have real consequences.

7 It's for these reasons and for all the reasons stated
8 in the government's sentencing memo, we're asking for a
9 sentence in the Guidelines range, which is sufficient, but not
10 greater than necessary, to satisfy the goals of 3553(a).

11 THE COURT: Okay. Thank you, Ms. Malizia.

12 So, Mr. El Bey, do you have a sentencing
13 recommendation, including any objections to forfeiture or
14 restitution?

15 As I mentioned, you will have an opportunity shortly
16 to say anything you want. So, Ms. Malizia has suggested that
17 she proposes a sentence in this Guideline range, 57 to 71
18 months. So, approximately five years to six years, roughly.

19 THE DEFENDANT: Yes, I object to that, your Honor.

20 First of all, I'd like to say that Ms. Malizia made
21 untrue statements. I'm not with any movement. No sovereign
22 movement. Anything I do, I stand on it as a individual, as a
23 man on my own. I'm not with any sovereign movement. I
24 don't -- anything that I do, I'll be responsible for whatever
25 I do. Okay?

1 Now, if you asking me if I stated that I am a
2 sovereign individual, yes, I am a sovereign man; but, I'm not
3 with any individual group. I don't do anything with anyone
4 but myself. So, I wanted to make that perfectly clear.

5 And, yes, Judge, if it's on me, I would say I don't
6 deserve anything. But if I have to go by Guideline, if I have
7 to, I don't see more than 18 to 24 months, Judge, because I
8 don't think that I really did anything to -- I haven't harmed
9 anyone, Judge. I haven't -- I don't see a witness here
10 claiming that I hurt them, I took anything from them.

11 But only thing I can do is -- I'm standing before you
12 right now. So, you know, my future is in your hands. That's
13 all I can tell you.

14 THE COURT: Okay.

15 THE DEFENDANT: Thank you.

16 THE COURT: Thank you, Mr. El Bey.

17 THE DEFENDANT: All right.

18 THE COURT: So, Mr. Fuentes?

19 MR. FUENTES: Thank you, your Honor.

20 I just wanted to make one clarifying point to start
21 out; which is: I have been standby counsel through the trial
22 proceedings since about early November of 2014. And as I
23 interpreted the Court's order very recently, at my suggestion,
24 that I'm technically not standby counsel anymore, I'm an
25 amicus, Judge.

1 THE COURT: Okay. That's correct.

2 MR. FUENTES: I'm as a friend of the court.

3 THE COURT: I had forgotten that. That's fine.

4 MR. FUENTES: I want to thank the Court for the
5 opportunity to be heard as an amicus.

6 It's customary in these district court sentencings
7 for one or more of the counsel to thank the probation officer
8 and the Probation Department for its work in the case. And I
9 will say that I think here that thanks is particularly well
10 deserved on the part not only of our officer who is here
11 today, but also Ms. DeNicholas, who prepared the report.

12 It was a very thoughtful analysis. It was a
13 recommendation for a below-Guideline sentence initially of 24
14 months and, then, increased to 28 after the failure to appear
15 for the July sentencing date. It was a recommendation that
16 was grounded in the probation officer's conclusions about
17 3553(a) and what need there is to impose a sentence -- the
18 fact that there is a need to impose a sentence that's
19 sufficient, but not greater than necessary, to comply with the
20 purposes of federal sentencing.

21 So, the question, I think, for the Court is, how much
22 is sufficient? How much is sufficient, but not greater than
23 necessary, for this to be a just punishment, for it to be a
24 deterrent to criminal conduct, to protect the public? I think
25 those are the three factors that are primarily in play here.

1 And, as the Court is aware, the insight of the
2 Probation Department, which is really an arm of the Court, can
3 be very helpful at sentencing.

4 So, according to the recommendation -- Ms. DeNicholas
5 was drawing on nine years of experience as a probation
6 officer. She indicated she had seen -- the word she used was
7 -- many --

8 THE COURT: I'm sorry, what?

9 MR. FUENTES: Many. She said she had seen many of
10 these tax-type cases involving persons who were -- either
11 described themselves or others described them as Moorish or
12 sovereign citizens. And she made some comments about the
13 defendant's motives in this case. She indicated that it
14 seemed to her more likely that he was acting out of his
15 various belief systems as opposed to a malicious intent to
16 harm the government's fist.

17 And she pointed out some mitigating factors. He has
18 a lengthy history of solid employment with the Postal Service.
19 He lived the first 50 years of his life lawfully. His
20 criminal record is virtually nil. There are some traffic
21 offenses in there. Many of us have traffic offenses. I won't
22 say that I have any. Certainly not pending. But in any case,
23 Judge, there are many mitigating factors in that respect.

24 So, if you look at those factors and you begin to
25 think of how much is needed for the deterrent effect -- and I

1 begin with that because, as I'll mention in a few moments, as
2 friend to the court, I made an attempt -- I had really a short
3 time to do it, but I didn't want to ask for a delay in the
4 sentencing. We have a defendant in custody. I looked at what
5 some other district courts are doing and have done in the case
6 and what some of their rationales have been. And it was
7 evident to me that the deterrent factor was certainly very
8 much at the forefront of these district courts' views.

9 So, in terms of specific deterrence, I wouldn't make
10 a prediction about whether Mr. El Bey would re-offend or not,
11 based on what he has espoused as his belief system here; but,
12 I would say that I had difficulty understanding or seeing a
13 basis to conclude that 57 months or anywhere between 57 and 71
14 was providing a significantly greater level of specific
15 deterrence than 24 or 28 months.

16 I think if he's going to re-offend, you could give
17 him ten years, your Honor, and he might re-offend. I'm not
18 seeing a difference. I'm not seeing added bang for the buck
19 on specific deterrence. I'm not seeing that 24 or 28 is not
20 enough in that instance, Judge.

21 On the question of general deterrence, it's -- that's
22 been a particularly important consideration in some of the
23 cases that I looked at. And, so, obviously, first of all, the
24 probation officer's analysis, before I move to those other
25 cases -- I think the Court read the recommendation.

1 So, the Court saw that her analysis on the 24 months,
2 28 months was based, in part, on some statistical data. 50
3 defendants convicted of tax-related offenses in the Seventh
4 Circuit; 26 received custodial sentences. So, that's 24, I
5 guess, receiving probation or less than custody. And of the
6 custodial sentences, the mean was 23 months; the median was 24
7 months. And she would describe that as tax-related offenses.
8 So, we don't have a greater transparency into the specific
9 offense conduct of those 50 cases.

10 We know from some statistical data that the
11 Sentencing Commission puts out, Judge, we know that in fraud
12 cases for fiscal 2014, nationwide 7400 sentencings, 28.3 of
13 which were below Guidelines, not sponsored by the government.
14 We know that. And we know also from the Sentencing
15 Commission's June, 2015, quarterly data report that about 27
16 percent of the 6,000-some 2B1.1 sentencings -- this is the
17 nationwide data -- were below Guidelines. About 27 percent.

18 So, we know courts are doing that. I think those
19 statistics provide some support for the probation officer's
20 conclusion. But, again, what I really thought might be more
21 helpful to the Court was to look at some of these specific
22 cases if we could find them in a short period of time. And we
23 were blessed that at the last time we were together, Judge,
24 you mentioned a case. You mentioned the Anzaldi case, which
25 had just been decided by the Seventh Circuit.

1 So, I pulled the sentencing memoranda in that case.
2 I looked at the judgments. And I, actually, also obtained the
3 transcripts of Judge Leinenweber's sentencing in those cases.
4 So, I learned a little bit about the case.

5 There were three defendants -- Latin, DeSalvo and
6 Anzaldi. Anzaldi got 63 months. That was the low end of what
7 Judge Leinenweber determined was the applicable range, 63 to
8 78. DeSalvo got 30 months. And that was below the low end of
9 his applicable range, which was 51 to 63. And Latin received
10 18 months, also below his 51-to-63 range.

11 So, if we look at the case, we understand that the
12 range is, in part, a function of the numbers and the scope of
13 the fraud. So, that was a case where the amount -- the
14 intended loss amount was something like \$8 million. There was
15 about 1.2 million that the IRS actually paid out. And when
16 you look at Anzaldi, I thought her situation was particularly
17 interesting and helpful here.

18 Anzaldi filled out returns for 11 other people in
19 that case. She used one of the people's credit cards to pay a
20 bill. She committed multiple mortgage frauds. And this is
21 all from the government's sentencing memo in that case. She
22 filed frivolous lawsuits against prosecutors, against judges
23 in that case. She wrote a threatening letter to the U.S.
24 Attorney.

25 And, so, all of this led Judge Leinenweber to

1 conclude, first of all, she wasn't really repentant at all;
2 and, second of all, that she was an instigator. And I think
3 if you look at the record in that case, Anzaldi was a pretty
4 bad actor when you look at all that conduct. And, so, she got
5 a Guideline sentence. And, by the way, these defendants all
6 went to trial and were convicted at trial.

7 So, what about the others? Latin got 18 months,
8 significantly below his Guideline. He had some mitigating
9 family circumstances. There was a special needs child, and
10 there was an argument at his sentencing about whether that
11 mattered or not. Judge Leinenweber gave him the 18. He
12 wasn't as big a player as Anzaldi was.

13 And, then, DeSalvo was someone who helped Anzaldi
14 file for these other people. He got 30 months. And, again,
15 his low end was 51.

16 So, when you look at these three defendants, it's
17 hard to say that Mr. El Bey is more like Anzaldi than the
18 other two, who Leinenweber gave below-Guideline sentences to.

19 Another case that I looked at, Judge, was U.S. vs.
20 Hodges. U.S. vs. Hodges is 13 CR 678. It happens to be a
21 Judge Leinenweber case. Again, there were three defendants.
22 And these involved lower intended loss amounts and a lower
23 loss -- actual loss -- to the IRS. So, the Guidelines ranges
24 were different.

25 The Guideline ranges were 27 to 33 for each of these

1 three defendants. And Judge Leinenweber gave each of them six
2 months, which was a little under a fourth of the Guidelines
3 low-end range. And there are comments in those transcripts
4 which I have available to the Court. In fact, all of the
5 materials I'm drawing from I have with me and would be happy
6 to provide them to the Court if it would like.

7 Judge Leinenweber's comments indicated, in part, that
8 he thought the intended loss figure in those cases may have
9 overstated the real risk to the IRS. And the question he
10 raised was, you know, I think there was a \$5 million claim and
11 would the IRS really have paid that out. That's a factor in
12 this case because, as you remember, Mr. El Bey actually
13 established through witness Ponzo in the case that Ponzo
14 didn't know why the IRS had done this, why they had paid the
15 two \$600,000 checks. So, no explanation was offered.

16 There was another witness who described a unit within
17 the IRS that's set up to prevent these returns from being paid
18 out on, and that sent the defendant a letter -- or several
19 letters at one point -- that caught it. But then he continued
20 to engage in the conduct. But nobody could really explain why
21 the money got paid out.

22 So, I think, you know, there is at play in this case
23 the notion that while the intended loss is very high -- 1.2
24 million -- you know, I don't know that it makes a difference
25 in the Guidelines because I think the range is 400,000 to 1.2

1 and there's an actual loss of 600. But in any case, there's a
2 little bit of that in this case.

3 And there's also a notion that the Guidelines'
4 emphasis on intended loss is an emphasis that some courts have
5 looked at and have questioned a little bit. The case cite I
6 can give to the Court for that is United States vs. Adelson,
7 which is a Southern District of New York case, 441 F.Supp.2d
8 506, in which the Court comments that it just didn't seem to
9 make a lot of sense to that district judge that there was as
10 much emphasis in the calculation under 2B1.1 on intended loss.

11 So, what I'm trying to do, Judge, is give the Court a
12 little bit of a flavor for why some district courts have, I
13 think, been willing to go below Guidelines on some of these
14 sentences.

15 Now, that said, Judge, there's another case that I
16 want to call to the Court's attention -- oh, I had one more
17 point on Hodges.

18 There's some indication in Hodges that one or more of
19 the defendants, Denise Hodges, had been sort of encouraged or
20 recruited to do this kind of behavior. And there's some
21 flavor of that here, as well. I'm not sure it ever came out
22 at trial, Judge, but there is a memorandum of interview in the
23 case where the defendant submitted to an interview and,
24 according to the agents who conducted the interview -- and the
25 government, I think, would stipulate that if the agents were

1 to testify, they would testify consistent with the
2 memorandum -- at one point the defendant said that he learned
3 about this from some person in the south suburbs named Winston
4 Shrout (phonetic) and that he paid Shrout some money and
5 Shrout gave him the instructions on how to do this.

6 I point that out not as an attempt to diminish
7 culpability, but as a point that illustrates some similarity
8 between his case and Hodges and, I think, some dissimilarity
9 between his case and Sharon Anzaldi, who is the person who is
10 telling other people to do this and causing other people to do
11 this.

12 So, finally, I want to mention another case that I'm
13 imagining the Court's erstwhile and learned clerks have
14 already discovered, United States vs. Clarke, with an "e" at
15 the end. This case was decided in the Seventh Circuit on
16 September 8th of this year. And while the appellate opinion
17 did not address the sentencing issues, I went back to PACER
18 and I pulled what the sentencing issues were. And I found
19 that the defendant in Clarke submitted, I think, in the range
20 of four or five returns that had income amounts claimed in the
21 range of \$900,000; that the refunds claimed were in the range
22 of \$300,000. And in that case, three refunds were paid. So,
23 the defendant -- there was an actual loss of 900,000.

24 And that defendant received from Judge Rudy Lozano, a
25 low-end sentence. But it was a Guideline sentence. So, some

1 courts are giving Guideline sentences, Judge. And that
2 sentence was, again, 41 months. His range was 41 to 51.

3 So, to sum up, Judge, I think the Court certainly has
4 the discretion, if it wishes, to issue a below-Guideline
5 sentence if the Court believes that incarceration or some
6 level of it is necessary as a societal response to what's
7 happened here as a measure of deterring further conduct by
8 others and by this defendant. The question is how much.

9 And, Judge, without basing this on anything
10 empirical, but in looking at the Probation data, the
11 Sentencing Commission data and what some judges -- like Judge
12 Leinenweber -- have done, I will tell you my own view is that
13 I was having a difficult time seeing how 57 months
14 accomplishes much more or any more than 24 or 28 months would
15 do, Judge.

16 And, so, my suggestion to the Court as amicus is that
17 a 24- to 28-month sentence would fulfill the purposes of
18 3553(a), and that more than that is not necessary. But that's
19 a discretionary decision for the Court to make based on all
20 the information.

21 So, at this point, I wanted to stop talking and ask
22 the Court if it had any questions for me.

23 THE COURT: No. It was an excellent statement.

24 MR. FUENTES: Thank you, Judge.

25 THE COURT: Thank you, Mr. Fuentes.

1 Ms. Malizia, do you have anything you want to respond
2 to?

3 MS. MALIZIA: Not at this time, your Honor.

4 THE COURT: Well, Mr. El Bey, this is your
5 opportunity for your allocution, and you can tell us anything
6 that you'd like to that would be relevant to sentencing.

7 THE DEFENDANT: Okay. I just wrote a little letter.

8 But, first of all, I want to thank this young man
9 right here for at least putting a good word in for me. I
10 appreciate it.

11 MR. FUENTES: Thank you. For the record, I'm old,
12 but I appreciate your comment.

13 (Laughter.)

14 THE DEFENDANT: One more thing I wanted to say before
15 I start reading my allocution, Judge, is if I knew that this
16 was a violation, I would have never done it. I don't do
17 anything illegal. I don't break any laws knowingly. Okay. I
18 just wanted to get that out. I thought it was very important
19 for you to know that.

20 Okay. Here's my allo- -- this is what I wrote. This
21 is how I felt in my heart.

22 Your Honor, accused in this criminal case coming as
23 he does from a colorable jurisdiction over his person and
24 property does object to being sentenced by this Court at this
25 time because the conviction in this case has been based upon

1 facts of the case while the law issues are still in dispute.
2 Namely, the Court's colorable jurisdiction in this criminal
3 charge which lacks the essence of a substantial claim claimed
4 by a damaged party. Put the Court on notice that if it does
5 pronounce sentence at this time over the objection of the
6 accused, the accused will formulate his objection before a
7 higher court in the nature of a writ of error.

8 And I just have five little quick questions, Judge,
9 if you don't mind my asking real quick.

10 The first one is, where is the alleged maritime
11 contract?

12 The second is, who or what is being addressed as to
13 defendant and is the defendant a trans-meaning utility or a
14 trust or a cooperative and who is it owned by?

15 And, three, is this a constitutional entity; and, if
16 so, is it organized under Article III or Article V?

17 And the fourth is, where is or who or what is the
18 injured plaintiff?

19 And the fifth one is, what jurisdiction or authority
20 does this Court or this officer have here to address
21 fraudulent claims to my intention?

22 And, so, on that note, Judge, that's just how I felt
23 in my heart and I just wanted to get that out. My hands is in
24 your hands now. My future is with you.

25 THE COURT: Okay. Well, thank you very much, Mr. El

1 Bey.

2 So, now I proceed to the sentencing analysis. And,
3 as I said, I'm not bound by the Guidelines range or the
4 recommendation of the government.

5 I have to consider a number of statutory factors in
6 Title 18 of the Federal Code, Section 3553(a). They're
7 somewhat numerous, these factors. They don't all apply. But
8 they have to do with the characteristics of the defendant; age
9 and criminal record, or lack thereof; and, the deterrent
10 considerations emphasized by Ms. Malizia, also by Mr. Fuentes;
11 the gravity of the offense; the necessity to maintain respect
12 for the law.

13 So, regarding the history and characteristics of
14 Mr. El Bey, no criminal history except for the driving
15 violation. I'm not going to worry about those.

16 Mr. El Bey is a member of the Moorish Science Temple,
17 and he adheres to beliefs that the temple promotes. He was
18 emphatic in rejecting the jurisdiction of my court.

19 I very much enjoyed -- right before the trial
20 started, Mr. El Bey held up a little American flag on a
21 plywood base, and he asked me whether this was the flag of the
22 United States. I said it was. He asked me to look behind him
23 at the flag in the courtroom and to observe that it had this
24 gold trimming. And he said that that was not the flag of the
25 United States; that was an admiralty flag; and, it meant that

1 my court was an admiralty court and I could only sentence -- I
2 could only try him for a violation of admiralty law.

3 I thought that was ingenious. I rejected it.

4 But he has a body of beliefs that he's entitled to,
5 of course. Anybody can believe whatever he wants. But some
6 of these beliefs that he urged are simply not recognized by
7 the law of the United States, and that's what I have to
8 enforce. But I think he's sincere in those beliefs.

9 The offense is serious in the sense that, you know,
10 \$600,000 is a large amount of money. I'm very critical of the
11 negligence of the Internal Revenue Service in allowing this
12 fraud to be perpetrated. The Service seems not to take the
13 most elementary precautions.

14 After they sent Mr. El Bey repeated frivolous return
15 notifications, nevertheless on his fourth submission, they
16 sent him \$300,000 and, then, on the fifth -- I don't
17 understand. They don't seem -- you'd think that once the
18 Service has filed -- has sent the taxpayer a notification he's
19 filed a frivolous return, they would make a note of this in
20 their computer records of this taxpayer so that the next time
21 he tried that, they would identify it. I don't understand.

22 And I do think it's unfortunate when an agency or any
23 other potential victim of crime actually kind of invites the
24 crime by its failure to take any elementary self-protective
25 precautions.

1 Now, with regard to considerations of general and
2 specific deterrence and respect for the law, and so on -- so,
3 we distinguish between general deterrence, which is deterrence
4 of other people, and specific deterrence, which is deterring a
5 defendant from future crimes. And I don't really think
6 there's a substantial probability that after completion of his
7 sentence Mr. El Bey will try to repeat the conduct that's
8 gotten him in trouble here. I don't think that's significant.

9 I do think general deterrence concerns are important
10 because there is a sovereign citizen movement and it does
11 promote criminal activity, and it's important that people in
12 that movement who are thinking of committing similar crimes
13 understand that there is punishment; and, on that basis, I
14 feel I have to impose a prison sentence.

15 However, I agree with Mr. Fuentes. I think the
16 Guideline sentence is excessive, given your age, given your
17 clean criminal record, given the fact that I don't think --
18 Ms. Malizia portrays you as sort of a calculating criminal. I
19 don't think so. I think this belief system you have exercised
20 significant influence on you. It's unfortunate. But I don't
21 think you're an evil person.

22 So, I'm impressed by the Probation Service's
23 analysis. They're neutral. They're not defendants'
24 representatives or anything like that. And the sentence that
25 they recommend is 28 months. It's based, in part, on the

1 fact, Mr. El Bey, that you became a fugitive, which you know
2 is disfavored. So, I'm going to sentence you to 28 months.

3 Now, technically, the 28 months is on each of the
4 eight counts for which you are convicted, but these 28 months
5 on each count will serve -- are to be served concurrently,
6 which means that the total sentence is 28 months. You get
7 credit for the time you've been in jail. It hasn't been very
8 much.

9 There's also -- even for sentences of this length,
10 there is good-time credit, isn't there?

11 MS. MALIZIA: There can be, your Honor.

12 THE COURT: So, if, as I'm sure you will, you know,
13 behave well in prison, you will receive some months off.

14 So, I am required to consider conditions of
15 supervised release. They are not onerous.

16 So, this will be for a period of three years after
17 you are released. So, you will be -- you will have a
18 probation officer assigned to you. So, these conditions are
19 as follows -- of course, you'll get this in writing.

20 So, first, you're not to commit a federal, state or
21 local crime. You're not to use or possess an illegal drug.
22 If a probation officer wants a DNA sample -- I don't know why,
23 but if the probation officer wants such a sample for your
24 genes -- then you may be required to cooperate with him.

25 You do have an obligation to pay restitution. I

1 mean, there's the forfeiture, and the value the government
2 obtains from its forfeiture will be applied against
3 restitution.

4 I had issued a preliminary forfeiture order. Now I'm
5 making it permanent.

6 So, the probation officer will assess your ability to
7 pay. And, obviously, we're not going to make you pay what you
8 can't pay. We don't have the debtors' prisons or anything.
9 You'll be required to notify the court and notify me if you
10 have some material -- some important change in your economic
11 circumstances that affect your ability to pay restitution.

12 If your health permits, you will be required to try
13 to obtain lawful employment. It may be difficult at your age.
14 You may have some health problems.

15 If you want to leave the Northern District of
16 Illinois for more than a week, you need to get your probation
17 officer's permission.

18 Now, the problem I've noticed in other cases, nobody
19 actually knows the borders of a federal district. Right? So,
20 your probation officer will give you a map showing you the
21 boundaries of the Northern District.

22 If you change your residence, if you change your
23 employer, workplace, you'll be required to notify the
24 probation officer within 72 hours. And, similarly, if you're
25 arrested or questioned by a police officer, other law

1 enforcement officer, you have to notify your probation officer
2 within 72 hours.

3 You have to provide the officer with access to
4 financial information that's relevant to your compliance with
5 any of these conditions. You have to pay all required
6 federal, state and local taxes.

7 Again, this will be an area where your personal views
8 are in conflict with legal requirements. I have to enforce
9 legal requirements.

10 You will have to give your probation officer a copy
11 of any tax return or other communications you have with the
12 Internal Revenue Service within a week. And you are not to
13 provide any false information to the Internal Revenue Service
14 or any other government agency. And, again, falsity as
15 defined in the law that binds us, although you are entitled to
16 personal views which disagree with that.

17 So, as I said, you're a middle-aged person. You're
18 not violent. I don't think you will commit crimes after
19 you're released from prison. I think you may have been misled
20 by other people.

21 For all these reasons, for the reasons Mr. Fuentes
22 gave -- which I thought were very persuasive, as I said -- I
23 think this 28-month sentence and conditions of supervised
24 release and with the final order of forfeiture, I think, are
25 adequate.

1 MS. MALIZIA: Your Honor?

2 THE COURT: Yes.

3 MS. MALIZIA: If I may interrupt, I think the
4 probation officer would like to address the Court about some
5 of the conditions that were recommended but your Honor has
6 chosen not to impose.

7 THE COURT: Okay.

8 MS. LAVIN: Your Honor, we would recommend that the
9 defendant refrain from possessing a firearm or destructive
10 device or other dangerous weapon as noted on No. 8. And,
11 then, also No. 15 and 16 in the report, to report to the
12 probation officer as directed and permit the probation officer
13 to visit the defendant at his home, work or community --

14 THE COURT: I'm sorry, I didn't hear you. Police
15 officer, did you say?

16 MR. HOTALING: Probation officer.

17 MS. LAVIN: The probation officer.

18 THE COURT: Probation officer.

19 MS. LAVIN: To permit the probation officer to visit
20 the defendant at his home or work or community location,
21 wherever, you know -- the probation officer will work it out
22 with the defendant where the appropriate places are to meet
23 with.

24 So, it's Nos. 8, 15 and 16 we would like recommended.

25 THE COURT: I will not impose those conditions.

1 MS. MALIZIA: Your Honor, I think as a convicted
2 felon under Illinois law, the defendant is actually prohibited
3 from possessing a firearm. I don't believe --

4 THE COURT: Well, if he's prohibited --

5 MS. MALIZIA: -- the defendant owns a firearm --

6 THE COURT: -- he's prohibited.

7 MS. MALIZIA: -- but it --

8 MR. HOTALING: We need to give him notice.

9 MS. MALIZIA: We need to give him notice that he
10 cannot possess a firearm upon his release from custody.

11 THE DEFENDANT: I don't own a firearm, your Honor, so
12 you don't got to worry about that.

13 MS. MALIZIA: Should not be a problem then.

14 THE COURT: Ms. Malizia pointed out, which is
15 something -- which is good to know, which is that if you
16 change your mind, you're not permitted to have a gun.

17 MS. MALIZIA: Your Honor, the government would
18 recommend that the defendant be prohibited from incurring new
19 credit charges or opening additional lines of credit without
20 the approval of the probation officer, in order to help with
21 his compliance in making restitution in this case. This is a
22 discretionary condition, but we think it applies here.

23 THE COURT: So, you want Mr. El Bey to notify the
24 probation officer if he wants to obtain a line of credit?

25 MS. MALIZIA: That's correct, your Honor.

1 THE COURT: Okay. I think that's reasonable.

2 MS. MALIZIA: And, your Honor, in this post-Thompson
3 world we're in, I believe the Court has to make a record of
4 its reasons for imposing these conditions, which can include
5 that they allow the probation officer to monitor the
6 defendant; they provide for the effective enforcement of these
7 conditions; they protect the public; they facilitate his
8 reintroduction into society; and, they help him engage in
9 responsible fiscal behavior to comply with any restitution
10 obligations.

11 I just ask that if we could put on the record that
12 those are the reasons these conditions are being imposed.

13 THE COURT: That's my decision -- Thompson.

14 MR. HOTALING: We certainly --

15 MS. MALIZIA: And we respect it. We want to make it
16 part of the record.

17 THE COURT: Well, I'll say a little about that.

18 MR. HOTALING: We certainly wouldn't want to have a
19 reversal on a Thompson ground.

20 (Laughter.)

21 THE COURT: I don't like supervised conditions. I
22 wish we still had parole.

23 But anyway, I think it's -- some of these things are
24 pretty obvious. Clearly, it would be very bad -- it would be
25 bad for society, bad for Mr. El Bey -- if after being released

1 from prison he were to commit a crime, obviously.

2 And nobody should use or possess an illegal drug.

3 And I don't think it's a danger, but this is actually a
4 required condition of supervised release. Since it's
5 required, I don't think I have to give an explanation.

6 I don't get the DNA -- what's the DNA sample about?

7 MS. MALIZIA: It's required under statute, your
8 Honor, for a convicted criminal.

9 THE COURT: Is there a reason for it?

10 MS. MALIZIA: I believe it's for identification if --
11 in the event that he re-offends, if there's a question about
12 his identity. It is a statutory requirement, though, for all
13 federal convicted criminals.

14 THE COURT: If it's a statutory requirement, I don't
15 have to give a reason.

16 I mean, clearly the question -- payment of
17 restitution, that's a sentencing question and depends on the
18 probation officer's assessment of Mr. El Bey's financial
19 circumstances. And, of course, he should notify the court and
20 notify me if there's been some change in your economic
21 conditions that affect your ability. That's self-evident.

22 And it's self-evident why you should try to seek
23 lawful employment. The government is eager to recover as much
24 of this money as possible. And if you're employed, of course
25 that will facilitate your payment. I don't think you're

1 likely to be able to pay \$600,000, but you have to make an
2 effort to pay as much as you are able to pay.

3 I do not actually understand why there are these
4 geographical limitations, why you should have to notify --
5 I'll ask the probation officer.

6 What is the theory behind saying he shouldn't leave
7 the Northern District? It's not as if the Northern District
8 of Illinois were some natural socially significant area. It's
9 a totally arbitrary collection of city and some suburbs.

10 MS. LAVIN: It's the district. So, we're the
11 Northern District of Illinois. So, that's why they're
12 required to just notify the probation officer. It's not that
13 they cannot leave it.

14 THE COURT: No, I understand.

15 MS. LAVIN: It's just a notification as a courtesy to
16 let the probation officer -- so they can supervise their case
17 load appropriately. If everyone has just kind of gone
18 wherever, it makes it impossible to supervise. So, it's more
19 of a supervision issue to --

20 THE COURT: Okay. Well, that makes sense then.

21 Just so that they know where you are. But they're
22 not going to lock you in the Northern District.

23 MS. LAVIN: No. Yeah, it's just so they can
24 supervise.

25 THE COURT: And I guess similarly, the seventh

1 condition about notifying probation officer within 72 hours of
2 any change in residence, employer, workplace, the same
3 thing -- just to keep track.

4 And notify a probation officer should you be arrested
5 or questioned by a law enforcement officer. Again, the sort
6 of thing probation wants to keep track of.

7 And that's really to your -- to help you, to make
8 sure you keep out of trouble. So, they're on your side.

9 And, similarly, providing your probation officer with
10 access to financial information relevant to your ability to
11 comply with all the conditions. Not just the money
12 conditions, but anything else.

13 And payment of required taxes, I think, is
14 self-evident and, similarly, giving the probation officer a
15 copy of a tax return or other communication with the Internal
16 Revenue Service and agreeing not to provide false information,
17 which, of course, would be a separate crime.

18 I think the only other thing I have to -- well, there
19 are a couple of other things I have to say.

20 Now, I don't know if this is something for the
21 probation officer. Mr. El Bey is not a violent person, and I
22 would strongly recommend that he be assigned to a minimum
23 security prison, as close as possible to his home.

24 MS. LAVIN: Right. On the judgment and commitment
25 order, if you could just make that recommendation that he

1 be -- what you said, be -- placed somewhere close to home and
2 in a minimum or medium security --

3 THE COURT: So, this should be on the sentencing
4 order?

5 MS. LAVIN: Yes.

6 MS. MALIZIA: Yes, Judge, as should, by the way, the
7 order of forfeiture. That should also be --

8 THE COURT: Excuse me?

9 MS. MALIZIA: The final order of forfeiture should
10 also be part of the judgment and commitment order.

11 (Brief pause.)

12 THE COURT: I will read the order of restitution,
13 forfeiture, special assessment just to be on the safe side.
14 But let me ask -- but before I do that, are there any other
15 issues that anyone wants to discuss?

16 MS. MALIZIA: At this point, no other issues from the
17 government, your Honor. Although the defendant does need to
18 be notified of his right to appeal before we adjourn.

19 THE COURT: No, no, I am not going to forget that.

20 So, I will read the portion -- there will be a
21 printed sentencing order. But I will just read the order of
22 restitution, forfeiture and the special assessment I
23 mentioned, the \$800.

24 So, I entered a preliminary order of forfeiture on
25 August 18th. This is now final. And this forfeiture asks for

1 forfeiting property worth \$600,000. Now, of course you don't
2 have that property. So, the forfeiture will only be a partial
3 satisfaction of the \$600,000 judgment.

4 So, the defendant is ordered to forfeit to the United
5 States the house located at 439 South Hoxie Avenue in Calumet
6 City, Illinois, and one Quicksilver 2010 Buick LaCrosse
7 four-door sedan.

8 Now, you are ordered also to make restitution of
9 \$600,000. Of course anything that's forfeited goes toward
10 that 600,000, but it won't reach -- it won't get all the way.
11 So, you will still have a restitution obligation.

12 You won't have to pay any interest on that 600,000.
13 And, as I've said already, you will have to provide the
14 probation officer with access to any financial information
15 that's needed to determine how much of the restitution you can
16 pay.

17 And the probation officer will devise a schedule on
18 which you will contribute to the restitution obligation,
19 something to be realistic in light of your present and likely
20 future resources. You will be asked to pay or ordered -- I'm
21 ordering you to pay -- the contributions you make toward
22 restitution will be at least ten percent of your monthly
23 income. The Probation Service will make any additional
24 recommendation to me about that.

25 And I mentioned earlier this mysterious special

1 assessment of a hundred dollars per count, \$800. That's on
2 top of the 600,000.

3 And, then, as I say, I'm not imposing a fine.

4 Now, the last issue -- and all this, including my
5 suggestion about a minimum security prison near your home,
6 that will all be in a written order. The oral -- what I
7 say -- if not entirely coherent, is the actual sentence, takes
8 precedence over the written sentence.

9 Now, about appeal. You have a right to appeal. Now,
10 in order to appeal, if you want to appeal, you have to file a
11 notice of appeal with the Clerk of the district court.

12 And is there a form for those, if you know? An
13 appeal --

14 MS. MALIZIA: I think -- your Honor, there are --
15 it's not a form per se, but there are models that the
16 defendant can use. The standard is very low. It should be
17 filed in the district court.

18 THE COURT: Right.

19 And will Mr. El Bey have access to these forms? He's
20 not a lawyer, so --

21 MS. MALIZIA: Your Honor, I can tell you that I know
22 that incarcerated defendants who have represented themselves
23 have successfully filed a notice of appeal after their
24 conviction. I cannot tell you specifically what is available
25 in Mr. El Bey's facility, but he does have access to those

1 resources.

2 THE COURT: I will ask the probation officer, does --
3 is any provision made for giving a prisoner something for a
4 non-lawyer? I don't know how a non-lawyer would figure out
5 what a notice of appeal is.

6 MS. LAVIN: Not that I'm aware of. I don't -- I
7 don't -- have any knowledge of what he has access to while he
8 is in custody.

9 MS. MALIZIA: Your Honor, for example, Mr. El Bey to
10 successfully file yet another affidavit of the truth since he
11 was arrested -- I believe that appeared on the docket last
12 week -- it is the same process that he would have used to file
13 that affidavit; but, he would say in his notice of appeal that
14 he is appealing his sentence or conviction, or whatever he
15 objects to; and, that appeal would have to be filed, again, in
16 the district court within 14 days. He needs to state the
17 basis for why he's objecting to his conviction or sentence.
18 But, again, because the defendant is pro se, the standard is
19 relatively low as long as it is within that 14-day period.

20 THE COURT: Okay.

21 So, Mr. El Bey, if you decide you want to appeal,
22 then file a notice and -- I mean, give it to, you know,
23 someone in the jail -- file -- to an officer -- file a notice
24 within 14 days. And all you have to say in the notice is that
25 you want to appeal from your conviction and sentence. We can

1 appoint -- you can appeal just from the sentence or just from
2 the conviction or both. That's fine. And there's a filing
3 fee. If you can't afford it, that will be waived.

4 Does the -- I should know. I have seen notices of
5 appeal. Should the notice of appeal -- does it have to
6 suggest a ground or can it just say that the defendant is
7 seeking reversal of his conviction or his sentence?

8 MS. MALIZIA: Your Honor, it can be very broad. It
9 can be brief. It can be broad. And it can just say that he
10 believes he has a basis for appeal because either the
11 conviction or the sentence were incorrectly decided. It can
12 be -- it's my understanding, especially in a pro se case like
13 this one, that it can be that broad at the outset. He will,
14 of course, have to elaborate on his reasons for making this
15 claim in a brief. But the original notice can be very broad.

16 THE COURT: Is that understandable?

17 THE DEFENDANT: Yes, sir, Judge.

18 THE COURT: Okay.

19 Is there anything else? Are we finished?

20 MS. MALIZIA: Nothing from the government, your
21 Honor.

22 (Brief pause.)

23 MR. HOTALING: We would agree to the waiver of that
24 provision.

25 THE COURT: I'm waiving the cost of incarceration.

1 THE DEFENDANT: I do want to say something.

2 THE COURT: Yes.

3 THE DEFENDANT: Even though I'm being sentenced, I
4 have enjoyed my time being with you, believe it or not,
5 because you have taught me some things.

6 THE COURT: Well, thank you.

7 THE DEFENDANT: I just wanted to say that to you. I
8 thought that was important.

9 THE COURT: Well, I have enjoyed my time with you,
10 also.

11 THE DEFENDANT: I appreciate it.

12 THE COURT: So, I guess that's it.

13 And, Mr. Fuentes, certainly thank you for your
14 efforts on behalf of Mr. El Bey.

15 MR. FUENTES: Thank you, Judge.

16 A formality, if I may. I'd like to request if the
17 Court could please enter an order that clearly discharges me
18 not only from my responsibilities earlier as standby counsel,
19 but for the friend of the court role, so that my status is
20 clear on the record. If the Court would be so kind as to do
21 that, we'd appreciate it.

22 THE COURT: Okay.

23 MR. FUENTES: And thank you, once again, for the
24 opportunity to be before you, Judge.

25 THE COURT: Well, thank you very much. I know it was

1 frustrating for you and it's been protracted. And we
2 really -- the Court greatly appreciates your taking the time.

3 MR. FUENTES: Thank you.

4 THE COURT: And certainly thank the prosecutors for
5 their efforts, which were very impressive.

6 And thank the Probation Service.

7 MR. HOTALING: We've enjoyed it, as well, Judge.

8 MS. MALIZIA: Thank you, Judge.

9 THE COURT: So, we are adjourned.

10 * * * * *

11

12 I certify that the foregoing is a correct transcript from the
13 record of proceedings in the above-entitled matter.

14 /s/ Joseph Rickhoff
15 Official Court Reporter

March 7, 2016

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